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REMARKS

Applicants thank the Examiner for the thorough consideration given the present application and acknowledge the indication that claims 39 and 43 include allowable subject matter.

The objections to claims 1-3, 5, 13, 15-17, 21, and 22 are obviated by the cancellation of these claims. Claims 36 and 39 are amended to address the issues noted in the Office Action.

Applicants traverse the objection of claims 40-54. A properly drafted apparatus claim is infringed when the goods are sold prior to being used. A device for doing something is a proper apparatus limitation. Citation of a decision in support of the position set forth in the Office Action is requested.

To expedite prosecution, claims 1-35, 38, 42, and 45-54 are cancelled without prejudice or disclaimer, Applicants reserving the right to file one or more continuing applications directed to the subject matter of these claims. In addition, claims 36, 37, 39, 40, 41, 43, and 44 are amended to specify that the store identity is derived by capturing location data and translating this to store identity. Also, claims 55-58 are added.

Added claims 55 and 57 correspond, in certain respects, to allowable claims 39 and 43. Claims 55 and 57 include the key features of claims 39 and 43 while omitting other limitations that Applicants believe the Examiner did not deem critical to

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patentability in the Office Action. A key feature of previously presented claims 39 and 43 now included in added claims 55 and 57 relates to translating location data into store identity data by using associated item data to resolve ambiguities in translating the location data to a store identity.

Applicants traverse the rejection of claims 36 and 40 under 35 U.S.C. §103(a) as being unpatentable over Hill (U.S. 2002/0078363) in view of the Iudica publication from *The Boston Globe* newspaper.

The Office Action fails to adequately take into account the requirements of claims 36 and 40 that store data are captured and associated with item data for that store and that store identity is thus recovered. Hill and Iudica do not disclose or suggest the combination. As the Office Action admits, Hill discloses collecting information only from one store and does not capture or use store or location data. Iudica merely describes a shopping trip to several stores by listing the names of the stores and the items found there. Nothing in either Hill or Iudica suggests the requirement of amended claim 36 to identify a store associated with each item data by using a service system to translate associated location data into store identity, or the requirement of amended claim 40 for a translation arrangement arranged to translate the location data into store identity data.

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In addition, the combination of Hill and Iudica is not proper because there is no indication that Hill is to be used for comparison shopping. The combination of these two references is the product of hindsight as a result of casting about to find bits and pieces of Applicants' claims after having reviewed their disclosure.

In view of the foregoing amendments and remarks, favorable reconsideration and allowance of the application are deemed in order, and such action is respectfully requested.

To the extent necessary during prosecution, Applicants hereby request any required extension of time not otherwise requested and hereby authorize the Commissioner to charge any prescribed fees not otherwise provided for, including application processing, extension, and extra claims fees, to Deposit Account No. 08-2025.

Respectfully submitted,

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